UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
HUERTA, ALEXANDER Q

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _29 February 2008_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under _Ex parte Quayle_, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-25_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-25_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _26 August 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☒ All   b)☐ Some *   c)☐ None of:

         1.☒ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _11/25/03_.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The previously submitted Information Disclosure Statement was considered. A

courtesy copy of the previously mailed PTO-1449 is attached.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. Claim 21 recites a "a computer program

product wherein the computer program comprises instruction sequences", which is not

functional descriptive material (i.e., "When functional descriptive material is recorded on

some computer-readable medium it becomes structurally and functionally interrelated to

the medium and will be statutory in most cases since use of technology permits the

function of the descriptive material to be realized"), thus non-statutory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, 15-25 are rejected under 35 U.S.C. 102(b) as being anticipated by
Eyer et al. (United States Patent 5,982,411), herein referenced as Eyer.

Regarding **claim 1**, Eyer discloses "a device (remote control) for selecting a
program from a plurality of programs [Col. 4 lines 23-31, see also Fig. 1], each program
being composed of a plurality of data series [Col. 3 lines 14-19, i.e. the program signal
is composed PID information and frequency], the device being used with a network
(communication system) which conveys a plurality of different data streams [Col. 4 lines
23-31, see also Fig. 1], at least one data stream conveying a plurality of programs" [Col.
2 lines 62-67, i.e. one of ordinary skill would recognize that the channel stream would
contain a plurality of programs from the broadcast providers]. The device (remote)
consists of

"a plurality of manually operable members, each allowing at least one manual
operation" [Col. 4 lines 23-31, Col. 6 lines 56-60]; and

"a command generator (transmitter) to issue commands able to select a program
from the plurality of programs within the network based on the operation of one or more
manually operable members amongst the plurality of manually operable members" [Col.
8 lines 26-31],

"wherein said command generator is arranged to issue the commands so that a
particular manual operation of one of said one or more manually operable members is
able to cause, without other manual operations of the plurality of manually operable
members, a selection of a program from the plurality of programs within the at least one
data stream and a selection of the data stream, from which the program is selected,

from the plurality of different data streams" [Col. 4 lines 23-31, Col. 6 lines 56-60, Col. 7

lines 19-30, i.e. Eyer teaches that the user uses the remote to select from a plurality of

broadcast sources to view].

Regarding **claim 2**, Eyer discloses "wherein network (communication system)

comprises a plurality of sub networks [Fig. 1 El. 120, 130, 140], each sub network

conveying one or more data streams and said command generator (transmitter) issues

the commands so that the particular manual operation of one of said one or more

manually operable members is further able to cause, without other manual operations of

the plurality of manually operable members, a selection of a sub network, from which

the program is selected, from the plurality of sub networks" [Col. 4 lines 23-31, Col. 8

lines 26-31, Fig. 1].

Regarding **claim 3**, Eyer discloses "wherein said command generator issues the

commands so that the particular manual operation of one of said one or more manually

operable members sequentially causes a selection of a data stream from data streams

conveyed within the selected sub network" [Col. 4 lines 23-31].

Regarding **claim 4**, Eyer discloses "wherein said one or manually operable

members and said command generator are in a remote control device which is used for

controlling an apparatus remote from the remote control device" [Col. 4 lines 23-31, Col.

8 lines 26-31].

Regarding **claim 5**, Eyer discloses "wherein said one or more manually operable

members include an increment and/or a decrement key for incrementing and/or

decrementing a program number" [Col. 4 lines 23-31, i.e. channel up/down button].

Regarding **claim 6**, Eyer discloses "further comprising means for obtaining information regarding the network and information regarding types and contents of the programs" [Col. 3 lines 14-21, Col. 3 lines 31-43, i.e. the broadcast stream provides transmission path, frequency, broadcast address, and PID information].

Regarding **claim 7**, Eyer discloses "apparatus (remote control) for selecting a program from a plurality of programs [Col. 4 lines 23-31, see also Fig. 1], each program being composed of a plurality of data series [Col. 3 lines 14-19, i.e. the program signal is composed PID information and frequency], the apparatus being connected to a network (communication system) which conveys a plurality of different data streams [Col. 4 lines 23-31, see also Fig. 1], at least one data stream conveying one or more programs" [Col. 2 lines 62-67, i.e. one of ordinary skill would recognize that the channel stream from the broadcast providers would contain a plurality of programs]. The apparatus comprising:

"a receiver (user interface) arranged to receive commands based on manual operations of a plurality of manually operable members each of which allows at least one manual operation" [Fig. 1 El. 185, Col. 7 lines 19-23, Col. 6 lines 56-60]; and

"a control circuit (CPU) arranged to select a program from the plurality of programs within the network based on the received commands" [Col. 8 lines 18-39],

"wherein said control circuit (decoder) selects the program from the one or more programs within the at least one data stream and further selects the data stream, from which the program is selected, from the plurality of different data streams in response to a specific manual operation (channel up/down) of one of one or more manually operable

members amongst the plurality of manually operable members without other manual

operations of the plurality of manually operable members" [Col. 7 lines 19-30].

Regarding **claim 8**, Eyer discloses "wherein said control circuit sequentially

selects the program from the programs conveyed by the selected data stream in

response to the specific manual operation of one of said one or more manually operable

members" [Col. 4 lines 23-31, i.e. the user selects a broadcast source which provides a

data stream carrying programs].

Regarding **claim 9**, Eyer discloses "wherein the network (communication system)

comprises a plurality of sub networks [Fig. 1 El. 120, 130, 140], each sub network

conveying one or more data streams and said control circuit selects a sub network, from

which the program is selected, from the plurality of sub networks in response to the

specific manual operation of one of said one or more manually operable members

without other manual operations of the plurality of manually operable members" [Col. 4

lines 23-31, Col. 8 lines 26-31, Fig. 1].

Regarding **claim 10**, Eyer discloses "wherein said control circuit sequentially

selects a data stream from the data streams within the selected sub network in

response to the specific manual operation of said one or more manually operable

members" [Col. 4 lines 23-31, i.e. the user selects a broadcast source that provides a

data stream].

Regarding **claim 11**, Eyer discloses "wherein said one or more manually

operable members are located in a remote control device which is used for controlling

the apparatus" [Col. 4 lines 23-31, Col. 8 lines 26-31].

Regarding **claim 12**, Eyer discloses "wherein said one or more manually operable members include an increment and/or a decrement key for incrementing and/or decrementing a program number" [Col. 4 lines 23-31, i.e. channel up/down button].

Regarding **claim 13**, Eyer discloses "means for obtaining information regarding the network and information regarding types and contents of programs in the network, and wherein said control circuit selects the program in accordance with the information obtained by said obtaining means" [Col. 3 lines 14-21, Col. 3 lines 31-43, i.e. the broadcast stream provides transmission path, frequency, broadcast address, and PID information].

Regarding **claim 15**, Eyer discloses "a decoder for decoding different programs encoded by different compression methods" [Fig. 1 El. 110, Col. 6 lines 24-30].

Regarding **claim 16**, Eyer discloses "a method of selecting a program from a plurality of programs within a communication network [Col. 4 lines 23-31, see also Fig. 1], each program being composed of a plurality of data series [Col. 3 lines 14-19, i.e. the program signal is composed PID information and frequency], wherein the network conveys a plurality of different data streams [Col. 4 lines 23-31, see also Fig. 1], each data stream conveying one or more programs" [Col. 2 lines 62-67, i.e. one of ordinary skill would recognize that the channel stream would contain a plurality of programs from the broadcast providers], the method comprising

"issuing commands based on manual operations of a plurality of manually

operable members, each allowing at least one manual operation" [Col. 8 lines 26-31];

and

"selecting a program from the plurality of programs within the network based on

the issued commands" [Col. 4 lines 23-31],

"wherein in that the program is selected in said selecting step from the one or

more programs within one data stream and the data stream, from which the program is

selected, is selected from the plurality of different data streams in said selecting step, in

response to a specific manual operation of one or more manually operable members

amongst the plurality of manually operable members without other manual operations of

the plurality of manually operable members" [Col. 4 lines 23-31, Col. 6 lines 56-60, Col.

7 lines 19-30, i.e. Eyer teaches that the user uses the remote to select from a plurality of

broadcast sources to view].

Regarding **claims 17-20**, claims 17-20 are interpreted and thus rejected for the

reasons set forth above in the rejection of claims 8-10, 13, respectively. Claims 8-10,

13 describe an apparatus for selecting a program from a plurality of programs and

claims 17-20 describe a method implementing the apparatus. Thus, claims 17-20 are

rejected.

Regarding **claim 21**, claim 21 is interpreted and thus rejected for the reasons set

forth above in the rejection of claim 16. Claim 16 describes a method of selecting a

program from a plurality of programs and claim 21 describes a computer program

product implementing the method. Thus, claim 21 is rejected.

Regarding **claim 22**, claim 22 is interpreted and thus rejected for the reasons set forth above in the rejection of claim 16. Claim 16 describes a method of selecting a program from a plurality of programs and claim 22 describes a data storage device or a microprocessor storing instructions of a computer program implementing the method. Thus, claim 22 is rejected.

Regarding **claim 23**, claim 23 is interpreted and thus rejected for the reasons set forth above in the rejection of claim 1. Claim 1 describes a device for selecting a program from a plurality of programs and claim 23 also describes a device for selecting a program from a plurality of programs. Thus, claim 23 is rejected.

Regarding **claim 24**, claim 24 is interpreted and thus rejected for the reasons set forth above in the rejection of claim 7. Claim 7 describes an apparatus for selecting a program from a plurality of programs and claim 24 also describes an apparatus for selecting a program from a plurality of programs. Thus, claim 24 is rejected.

Regarding **claim 25**, claim 25 is interpreted and thus rejected for the reasons set forth above in the rejection of claim 16. Claim 16 describes a method of selecting a program from a plurality of programs and claim 25 also describes a method for selecting a program from a plurality of programs. Thus, claim 25 is rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer, in view of Van Ryzin et al. (United States Patent 6,255,961), herein referenced as Van Ryzin.

Regarding **claim 14**, Eyer fails to disclose "means for transferring at least a part of the information obtained by said obtaining means to the remote control device".

Van Ryzin discloses "means for transferring at least a part of the information obtained by said obtaining means to the remote control device" [Col. 2 lines 24-35]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Eyer, by specifically providing a means for transferring at least a part of the information obtained by said obtaining means to the remote control device, as taught by Van Ryzin, for the purpose of allowing the creation of customized remote control commands based on characteristics of a particular A/V device. [Col. 2 lines 36-43].

Response to Arguments

Applicant's arguments with respect to claim 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER Q. HUERTA whose telephone number is

(571)270-3582. The examiner can normally be reached on M-F(Alternate Fridays Off) 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571)272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alexander Q Huerta
Examiner
Art Unit 2623

May 2, 2008

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2623